IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 658 of 2000
to
CIVIL REVISION APPLICATION No 664 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BANK OF BARODA

Versus

BHAGWAN INDUSTRIES

Appearance:

1. Civil Revision Application No. 658 of 2000

MR KM PARIKH for Petitioner No. 1

MR NK MAJMUDAR for Respondent No. 2

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 22/03/2002

COMMON ORAL JUDGEMENT

Considering the submissions made by the counsel appearing in the matter and the challenge of the order in

all these revision applications, I intend to dispose of all these civil revision applications by common judgement.

2. In Civil Revision Application No. 658/2000 the challenge is in respect of the order dated 30th September, 1999 passed below application Ex.13 in the Summary Suit No. 75/93, wherein, the learned trial Judge has allowed the application of the respondent defendant by granting unconditional leave. In Civil Revision Application No. 659/2000 the challenge is in respect of the order dated 30th September, 1999 passed below application Ex.13 in the Summary Suit No. 82/93, wherein, the learned trial Judge has allowed the application of the respondent defendant by granting unconditional leave. In Civil Revision Application No. 660/2000 the challenge is in respect of the order dated 30th September, 1999 passed below application Ex.13 in the Summary Suit No. 65/93, wherein, the learned trial Judge has allowed the application of the respondent defendant by granting unconditional leave. In Civil Revision Application No. 661/2000 the challenge is in respect of the order dated 30th September, 1999 passed below application Ex.12 in the Summary Suit No. 60/93, wherein, the learned trial Judge has allowed the application of the respondent defendant by granting unconditional leave. In Civil Revision Application No. 662/2000 the challenge is in respect of the order dated 30th September, 1999 passed below application Ex.13 in the Summary Suit No. 78/93, wherein, the learned trial Judge has allowed the application of the respondent defendant by granting unconditional leave. In Civil Revision Application No. 663/2000 the challenge is in respect of the order dated 30th September, 1999 passed below application Ex.13 in the Summary Suit No. 81/93, wherein, the learned trial Judge has allowed the application of the respondent defendant by granting unconditional leave. In Civil Revision Application No. 664/2000 the challenge is in respect of the order dated 30th September, 1999 passed below application Ex.13 in the Summary Suit No. 71/93, wherein, the learned trial Judge has allowed the application of the respondent defendant by granting unconditional leave. Mr. Parikh, learned advocate for the petitioners has vehemently urged that the learned trial Judge has committed error in not considering the provisions of order 37 as the petitioner Bank has filed the suits against the defendants for recovery of the dues by way of summary suit as back as in the year 1993 and the application for leave to defend was submitted by the defendant at a very belated stage in the year 1999. It is the contention of Mr. Parikh that even

reading the application the defendant has not made out any case for granting unconditional leave to defend. It is his submission that the learned trial Judge ought to have examine the claim put forward by the plaintiff Bank, for which the summary suits were filed and by granting such unconditional leave in favour of the respondent defendant, has resulted into miscarriage of justice.

3. Mr. Majmudar, learned advocate for the respondent has supported the order under challenge passed by the learned Judge and according to him, this is not a matter, where this court is required to interfere with such order while exercising my revisional powers under Section 115 of the Civil Procedure Code. In view of the fact that learned trial Judge has granted unconditional leave to defend as prayed for by the defendant while examining the case put forward by the defendants, which is based on the decision for which, this court is not required to entertain while exercising my revisional powers under Section 115 of the Civil Procedure Code and accordingly, he requests that there is no substance in the revision applications and prayed for dismissal of all revision applications.

4. On considering the submissions made before me and on goring through the orders under challenge, it is true that the petitioner has filed summary suit claiming amount from the defendants and all the suits are filed by the plaintiff Bank as back as in the year 1993 . The application for leave to defend was submitted by the defendant in the year 1999 at a very late stage and the learned trial Judge has while deciding the application for leave to defend has relied upon the decision reported in 1990(2) GLR page 1296 and further observed that the mix question of facts and law are involved in the matter and though the applications for leave to defend is filed at a very late stage and as per the ratio laid down by the Hon'ble High Court, I am of the view that this is not a matter wherein this court is required to entertain the revision application while exercising my revisional jurisdiction under Section 115 of the CPC. Hence there is no substance in these Revision Applications.

5. While disposing of all these Revision Application I am inclined to give directions to the learned trial Judge that as the Summary Suits are of the year 1993, the trial Court is directed to dispose of all the suits as expeditiously as possible in accordance with law but not later than 31st December, 2002. With these observations all these civil revision applications are accordingly disposed of. Rule is discharged. There shall be no

order as to costs.

(D.K.Trivedi, J.)

pallav